

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

FILED
MAY 11 2007
DAVID CHEWS, CLERK
By *Kay Jewell*
Deputy

**CHARLOTTE SMITH; CHANDLER SMITH,
a child, by his mother Charlotte Smith;
DARIUS SMITH, a child by his mother
Tajuana Smith, guardian**

PLAINTIFFS

VS.

CAUSE NO. 1:07CV113-m-D

**BRANDON PRESLEY, MAYOR OF NETTLETON,
MISSISSIPPI, 38858; THOMAS ADAMS,
POLICE CHIEF OF NETTLETON;
GERRY TURNER, POLICE OFFICER**

DEFENDANTS

COMPLAINT FOR DAMAGES

COMES NOW, the Plaintiffs, and files this their Complaint in the United States District Court for the Northern District of Mississippi and for grounds which show the following facts:

1. The Plaintiffs are adult resident citizens of the State of Mississippi living in Monroe County, Mississippi.
2. The Defendant, Mayor Brandon Presley, is the elected Mayor of the City of Nettleton, Mississippi.
3. The Police Chief, Thomas Adams, is a duly appointed Police Chief of the City of Nettleton and was the supervising officer of the Police Department at the time that the incident, which is the basis of this law suit, occurred.
4. Gerry Turner is named as a defendant, as the arresting officer who filed charges of public profanity and made the arrest in this case and farther without

adequate justification maliciously sprayed pepper spray into a group of people, which included two children.

5. This is a Civil Rights lawsuit brought by the plaintiffs, which includes two minor children; Darius Smith, sixteen years old and Chandler Smith, eleven years old; claiming police brutality, false arrest, malicious prosecution, false prosecution of Charlotte Smith, deformation of character, racial profiling, applying a statute in a racial discriminatory manner, and assault which is all included in the Federal Civil Rights complaint and Pendant State causes of action.

6. Gary Turner is named as a Defendant as the arresting officer who filed the charges of public profanity and made the arrest in this case.

7. This is a civil rights lawsuit brought by the Plaintiffs which include two minor children, claiming police brutality, false arrest, malicious prosecution, false prosecution of minors, defamation of character, racial profiling, applying statute in racial discriminatory manner, malicious prosecution, assault which included the the Federal Civil Rights Complaint and pendent state causes of action.

8. Claims are made for compensatory damages, punitive damages, and attorney fees.

9. This action arises under the first, fourth, and fourteenth amendment of the United States Constitution and Sections 1981, 1983, and 1988 of 42 U.S. Code 1981, 1983, and 1988. Also pendant state claims for malicious prosecution assault, false arrest, deformation of character, and infliction of mental distress are included. Plaintiffs ask for a trial by jury on all issues in this case.

10. The Mayor, Brandon Presley, took an active role along with the Police Chief, Tommy Adams in the running of the Nettleton Police Department and that the City of Nettleton is a relatively small town and the mayor himself was actively involved in the operations of the police department.

11. On or about January 23, 2006, in Nettleton, Mississippi, Charlotte Smith, a well respected African-American was shopping with her child and nephew at a local store on the weekend in the city of Nettleton. A fight ensued on the parking lot of the store. Charlotte Smith was not involved in the fight but did assist the Manager of the store in breaking up the fight. Officer Gerry Turner, who was employed as a police officer with the city of Nettleton at the time, arrived after the fight had been broken up. To all present it was obvious there had been a fight and major disturbance threatening the peace of the town. To all present Charlotte Smith was the good person and not the criminal.

12. Charlotte Smith asked the defendant, Gerry Turner, who was acting under color of the law and as a police officer for the City of Nettleton, why he was not going to make an arrest. This officer, after several requests, said that he was not going to do anything and if Mrs. Smith wanted to take some action that she, herself would have to go to City Hall the following Monday to file charges. Being somewhat frustrated, Charlotte Smith got into the car with the minor children and muttered, in a relatively low voice, "I've had enough of this shit." Immediately thereafter, Gerry Turner, still acting under the color of state law, forced Mrs. Smith out of the car in the presence of the children and proceeded to handcuff her

in front of the minor children and pinned her against either the wall or car. By these actions, the children became hysterical and then the officer sprayed these children with pepper spray and maliciously filed charges against them in the youth court while still acting under the color of the City and State authority.

13. Police Officer, Gerry Turner, filed charges of public profanity against Charlotte Smith. The Charge of Public Profanity was later tried in spite of the fact it should have never been tried. The City Judge, after a lengthy trial, in the Municipal Court, correctly found Charlotte Smith not guilty. As a matter of law, the charge of Public Profanity in itself is un-Constitutional. It is un-Constitutional applied under these facts.

14. The Plaintiff, Charlotte Smith, alleges that there was a deliberate attempt by the City officials to keep Charlotte Smith from knowing the Court's decision since her attorney had to call to find out the verdict since the Judge took it under advisement. Plaintiffs allege that the Mayor, Brandon Presley; Police Officer, Gerry Turner; Police Chief, Tommy Adams; and other unnamed persons acted in a conspiracy to keep the disposition of this case quiet since the Judge took it under advisement. In fact, a written decision of the trial from April was not turned in until the fall of 2006 and Counsel for the Plaintiff had to call to get the decision. The Defendants hoped this case would go away and made a deliberate effort to see that occurred and immediately after the learning of deposition, a Notice of Claim under the Mississippi Tour Claims Act was sent the Mayor, Brandon Presley; The Clerk of the City of Nettleton, and Police Officer Gerry

Turner.

15. Plaintiffs allege that the actions of Officer Gerry Turner represented the policies and practices which were afforded and adopted by the City of Nettleton and its elected and appointed officials. The Mayor and the Police Chief, who were both actively involved in the running of the police department, failed to train and supervise its officers and acted in a racially discriminatory manner and failed to take proper actions to control the actions of its officers.

16. The Plaintiffs, including Charlotte Smith and the two children age sixteen and age eleven, have incurred attorney fees, mental anguish, mental distress, deformation of character, and other related damages. Each Plaintiff, being Charlotte Smith and the children, Chandler Smith and Darius Smith, each ask for an award of five hundred thousand dollars (\$500,000) for actual and punitive, plus an award of attorney fees.

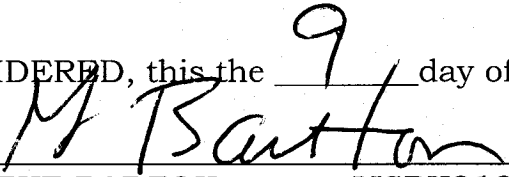
WHEREFORE PREMISES CONSIDERED, Plaintiffs demands the following:

1. Each Plaintiff, Charlotte Smith, Chandler Smith, a child age 11, and Darius Smith, a child age 16, demands actual and punitive damages in the sum of five hundred thousand dollars (\$500,000).

2. That all Defendants be required to pay all reasonable attorney fees incurred by the Plaintiffs in the pursuit of this action.

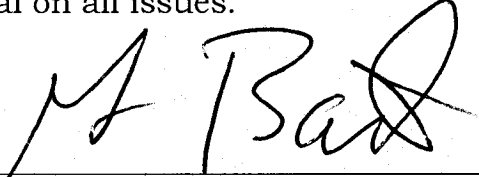
3. All Plaintiffs, Charlotte Smith, Chandler Smith, a child, and Darius Smith, a child, demand a jury trial for all issues in this complaint.

WHEREFORE PREMISES CONSIDERED, this the 9 day of May,
2007.


GENE BARTON **MSBN2102**
POST OFFICE BOX 147
OKOLONA, MS 38860
TELEPHONE: 662-447-2522
FACSIMILE: 662-447-2526
MAIL: gbartonatty@bellsouth.net
ATTORNEY FOR PLAINTIFFS

DEMAND FOR JURY TRIAL

Comes now, all Plaintiffs: Charlotte Smith, Chandler Smith, and Darius Smith,
and asks for a jury trial on all issues.


Gene Barton, Attorney for the Plaintiffs